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August 16, 2005

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Western Washington Municipal SW Comment

Mr. Bill Moore

Washington State Department of Ecology

Water Quality Program

P.O. Box 47600

Olympia, WA 98504-7600

Dear Mr. Moore:

**SUBJECT: City of Olympia Comments on Preliminary Draft Phase II
Municipal Stormwater Permit for Western Washington**

Thank you for the opportunity to provide comment on this preliminary draft permit. I would like to compliment Washington State Department of Ecology (Ecology) staff for their efforts in developing this draft, given the complexity of issues, and for their receptiveness to receiving comments.

There is great diversity among the jurisdictions that will be subject to this permit, and the list of stakeholders involved is long and varied. The comments provided below are reflective of concerns for the City of Olympia specifically, a City with a demonstrated commitment to stormwater management and an established program. Comments are organized by page and line number as follows (e.g., 9.3 identifies page 9, line 3) or by section (e.g., S6) for more general comments.

- 3.35 Suggest that this section (S1.D.2.b) be modified or deleted. In March of 2003, jurisdictions applied for coverage under an individual NPDES Phase II permit. A Notice of Intent (NOI) should be required separately for coverage under this general permit.
- 4.3 Editorial comment regarding, "The operator chooses to be..." Suggest you add the word "to".
- 5.5 Suggest clarification of permit language regarding "New Stormwater Discharges" throughout the permit to assure consistency with the state vesting laws that jurisdictions are also subject to.
- (S6) General comments on S6.Monitoring—The City of Olympia met with staff from Thurston County and the City of Tumwater to discuss the merits of this section. Our understanding of the intent of this permit is: to ensure that existing stormwater discharge is reduced to the maximum extent practicable, and that new stormwater discharges meet the technical standards in Appendix 1 and the other terms of the

permit. The permit does not require actual reductions in stormwater pollutants. We agree that Ecology's desire to "assess the effect of implementing the permit" at the state and local level could not be met by the current monitoring proposal.

The proposal for monitoring receiving waters would not provide information for local jurisdictions to improve their NPDES program because stormwater impacts could not be accurately detected and distinguished from the cumulative effects of multiple other sources. Surface water monitoring should not be tied specifically to this stormwater permit since many other causes of water quality impairment exist (e.g., septic failure, riparian condition, surface/groundwater connectivity).

Also, the proposal for stormwater quality monitoring would not provide information for local jurisdictions to improve their program because the permit will not likely reduce stormwater pollutants from existing sources at detectable levels. For those with established programs, pollutant reductions will be nearly impossible to detect outside of those related to illicit discharges.

Characterizing stormwater volume and quality may be a useful tool for jurisdictions to prioritize problem areas, but this level of observation would not be useful to assess the impact of the permit program. Requiring water quality data to be submitted with the annual report would be a good way for Ecology to manage water quality data for their statewide assessments [305 and 303(d) list]. However, the nature and extent of a jurisdictions monitoring program should not require Ecology approval under this permit as stated in S6.B.2.

- 10.3 A more specific comment on S6.Monitoring is to suggest clarification of BMP effectiveness monitoring to indicate that it does not include monitoring the effectiveness of structural BMPs referenced in Section S7.4.a.iii., or those approved by Ecology's TAPE and CTAPE protocols. These BMPs will have already undergone effectiveness monitoring. Federal Register, 40 CFR 122.34(g)(1) states: "*Evaluation. You must evaluate program compliance, the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals.*"

It is the appropriateness of your BMP selection, compliance with the permit, and progress towards achieving goals that are to be evaluated for permit compliance, not the BMPs themselves. BMPs are covered in 40 CFR 122.34(d)(3): "*Guidance: Either the EPA or your State or Tribal permitting authority will provide a menu of BMPs. You may choose BMPs from the menu or select others that satisfy the minimum control measures.*" The 2005 Stormwater Management Manual for Western Washington is offered in the draft permit as a menu of BMPs that will satisfy some minimum control measures while others are offered under the appropriate components of Section S7.

The monitoring of structural BMPs places an undue technical and financial burden on jurisdictions and does not seem justified given the rigor of testing that BMPs in the Manual, or those coming through TAPE and CTAPE protocols, have already undergone. Continued research on BMP effectiveness should be conducted by Ecology, jurisdictions with adequate funding and support, or a third party.

- (S6) Suggestions for S6.Monitoring—Performance measures for each of the program elements, rather than the required monitoring presented in this draft, would be a more effective way to assess the program. Ecology and jurisdictions could set targets for each measurable outcome. Results can be compared to targets each year. Some examples include:

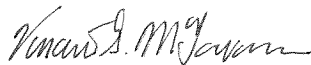
- % of facilities inspected annually (target: 100%)
- # of private facilities that do not pass inspection (target: none)
- % of outfalls inspected for illicit discharge per year (target: 20%)
- % of target audience reached for each specific education effort (target: 100%)
- % catch basins/pipes cleaned annually (target 20%)

I look forward to the opportunity to provide comment on *Appendix VI. Annual Report Form* in the next draft of the permit as this form could provide the structure for permit compliance monitoring based on measurable outcomes.

- 18.2 Editorial comment regarding "...maximum extent practical..." Suggest this be changed to "practicable".
- 18.6 Suggest that Ecology expedite a formal process for establishing the equivalency of jurisdictional stormwater manuals to its 2005 *Stormwater Management Manual for Western Washington* so that jurisdictions can receive an equivalency determination prior to the date that it will be required under the permit.
- 22.18 Editorial comment regarding, "...in accordance with S9, ..." Suggest either changing the reference to S9, Reporting Requirements, or adding a section S10, Record Keeping.

If you have any questions regarding these comments, please feel free to contact me at (360) 753-8321.

Sincerely,



VINCE MCGOWAN
Senior Program Specialist
Public Works Department

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